

JUDGE FORREST
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

12 CIV 1058

----- X
COURTNEY E. MURPHY

Plaintiff,

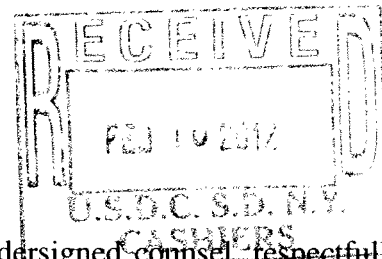
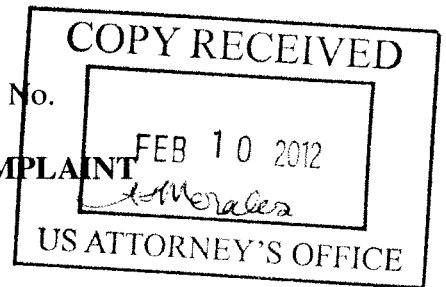
- v -

UNITED STATES DEPARTMENT OF HOMELAND
SECURITY and its component FEDERAL EMERGENCY
MANAGEMENT AGENCY

Defendants.
----- X

Case No.

COMPLAINT



Plaintiff COURTNEY E. MURPHY, by and through undersigned counsel, respectfully
alleges as follows:

INTRODUCTION

1. This action is brought pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, to compel the disclosure of records concerning the distribution of federal aid to New Orleans, Louisiana public schools following the August 29, 2005 hurricane known as "Katrina."

2. The records at issue were first requested from the UNITED STATES DEPARTMENT OF HOMELAND SECURITY (the "Department") and its component FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") on February 26, 2010, pursuant to FOIA by COURTNEY E. MURPHY acting jointly with Robert S. Emmett.

3. No objections or exemptions have ever been set forth by the Department or FEMA in regard to the February 26, 2010 requests.

4. A significant controversy has arisen, concerning the nature, scope and extent of physical loss and damage sustained to various buildings within the New Orleans, Louisiana

public school system in the wake of Hurricane Katrina, that affects the citizens of New Orleans (Orleans Parish), as well as certain insurers of the Orleans Parish School Board, who MURPHY and Emmett individually represent.

5. The information requested on February 26, 2010 is subject to public disclosure under FOIA.

6. The Department and FEMA have repeatedly agreed to provide the requested records, but failed to do so over the past two years.

7. Given the substantial interest in shedding light on the Department and FEMA's activity following Hurricane Katrina, and the impending effect that the Department/FEMA's information may have on the repair or replacement of New Orleans public schools, plaintiff seeks expeditious treatment of this Complaint for injunction pursuant to 28 U.S.C. § 1657.

PARTIES

8. Plaintiff COURTNEY E. MURPHY ("MURPHY") is a resident of Connecticut who conducts her business from the New York, New York offices of CLAUSEN MILLER, P.C.; her principal place of business is located at One Chase Manhattan Plaza, New York, New York 10005.

9. At all times pertinent to the present dispute, the FOIA requests and communications by plaintiff originated in the New York, New York offices of CLAUSEN MILLER, P.C.

10. Prior to February 26, 2010, MURPHY was retained by Westchester Surplus Lines Insurance Company and RSUI Indemnity Company, *inter alia*, to defend a suit filed in Louisiana by the Orleans Parish School Board ("OPSB"), which is presently pending in the Civil District Court for the Parish of Orleans, No. 2006-7342 (the "OPSB suit").

11. Prior to February 26, 2010, Robert S. Emmett (“Emmett”) was retained by Clarendon America Insurance Company, to defend it in the same OPSB suit.

12. Westchester Surplus Lines Insurance Company, RSUI Indemnity Company and Clarendon America Insurance Company, *inter alia*, are co-defendants in the OPSB suit and MURPHY and Emmett are joint requestors of the FOIA records at issue.

13. Among other issues presented in the OPSB suit is the nature, scope and extent of repair and replacement costs anticipated or incurred by the OPSB as a result of Hurricane Katrina.

14. In the aftermath of Hurricane Katrina, New Orleans public schools made claims for loss and damage to defendant UNITED STATES DEPARTMENT OF HOMELAND SECURITY and its component FEDERAL EMERGENCY MANAGEMENT AGENCY.

15. Defendant UNITED STATES DEPARTMENT OF HOMELAND SECURITY (the “Department”) is a department within the executive branch of the United States government. Defendant FEDERAL EMERGENCY MANAGEMENT AGENCY (“FEMA”) is a component unit of the Department and is responsible for responding to natural disasters and providing relief assistance on behalf of the federal government. Both defendants are agencies of the United States within the meaning of 5 U.S.C. §§ 552(f)(1). The Department/FEMA have possession and control of the records requested by plaintiff, as defined in 5 U.S.C. §§ 552(f)(2).

JURISDICTION AND VENUE

16. This Court has subject matter jurisdiction of this action and personal jurisdiction over the Department and FEMA pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(E)(iii). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

17. Venue is premised on MURPHY’s New York, New York principal place of business and is proper in this district under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 112(b).

GENERAL ALLEGATIONS

18. On or about August 29, 2005 the hurricane known as “Katrina” impacted the City of New Orleans, Louisiana. Hurricane Katrina caused widespread damage and had varying effects on numerous facilities in the New Orleans public school system.

19. In the aftermath of Hurricane Katrina, New Orleans public school entities, including the Orleans Parish School Board, Recovery School District and the Louisiana Board of Elementary and Secondary Education requested aid from the Department and FEMA.

20. The Department, through FEMA, is reported to have reviewed these requests, investigated and inspected the properties at issue, and distributed aid to the Orleans Parish School Board, Recovery School District and/or the Louisiana Board of Elementary and Secondary Education.

21. In order to shed light on the Department and FEMA’s findings of loss and damage, MURPHY and Emmett jointly requested documents related to the Department and FEMA’s inspections, assessments, grants, payments, and other matters pertaining to insurance payments for and recovery by the OPSB from the Department/FEMA in the aftermath of Hurricane Katrina.

22. Both the Department/FEMA and the Orleans Parish School Board are public entities and there is significant public interest in the records requested.

23. The purpose of MURPHY and Emmett jointly requesting the documents was to avoid any undue burden that may be caused by each party individually making duplicative requests of the Department/FEMA for what was then understood to be a volume of documents in excess of 256,500 pages.

24. On February 26, 2010, pursuant to FOIA, Emmett wrote to the Department/FEMA seeking:

- 1) all documents pertaining to inspections conducted by FEMA and/or individuals or entities acting under FEMA's authority of any/all properties, buildings, schools and/or other administrative buildings owned/ operated by the Orleans Parish School Board and/ or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area;
- 2) all documents pertaining to damage assessments made by you and/or individuals or entities acting under FEMA's authority of schools and/or other buildings owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area;
- 3) all documents pertaining to grants, payments or other monies provided by you and/or dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency for the clean-up, debris removal, remediation, restoration, repair and/or reconstruction of schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area. Additionally all documents detailing those amounts obligated by FEMA as well as amounts actually drawn down by the Louisiana Recovery School District from the State for each school, building, and/or property;
- 4) any and all documents pertaining to insurance credits and or offsets taken by you or submitted to you regarding monies dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency and/or your payments for damage to schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Department of Education located in the Greater New Orleans area; and
- 5) any and all documents pertaining to insurance coverage for schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Department of Education located in the Greater New Orleans area damaged by Hurricane Katrina;

from August 29, 2005 to the present.

(A true and correct copy of the February 26, 2010 FOIA request is annexed hereto as Exhibit "A".)

25. In March 16, 2010 correspondence, Department/FEMA Senior FOIA Specialist Pauline Byrd acknowledged receipt of the FOIA request on March 11, 2010 and assigned reference number FEMA 10-338 to the request. (A true and correct copy of the March 16, 2010 FEMA response is annexed hereto as Exhibit "B".)

26. In undated correspondence from the Department/FEMA received on May 24, 2010, Byrd once again acknowledged the FOIA request and requested an advance payment of \$27,410.00 for the costs of reproducing the requested documents. (A true and correct copy of the FEMA correspondence received on May 24, 2010 is annexed hereto as Exhibit "C".)

27. The \$27,410.00 was promptly paid to the Department/FEMA in 2010 by plaintiff, via CLAUSEN MILLER, P.C., however, no documents were provided in response to the FOIA request in 2010.

28. On or about August 17, 2011, the Department/FEMA's Disclosure Branch Chief, Dr. Anthony "Tony" Bennett ("Bennett") contacted Emmett via telephone regarding the FOIA request. Bennett informed Emmett that approximately 300,000 responsive documents had been scanned and would be disclosed on a weekly basis beginning in the week of August 22, 2011.

29. Having received no documents, on or about September 28, 2011, MURPHY contacted Bennett via telephone to inquire about the status of the FOIA request. Bennett represented to MURPHY that the Department/FEMA was attempting to comply with the request by October 10, 2011.

30. On October 6, 2011 Bennett contacted MURPHY to inform her that the Department/FEMA may not be able to meet the October 10, 2011 production date. Both MURPHY and Emmett made further inquiry to Bennett in writing on October 6, 2011. (True and correct copies of MURPHY and Emmett's October 6, 2011 correspondence is annexed hereto as Exhibits "D" and "E", respectively.)

31. On October 21, 2011, Bennett responded on behalf of the Department/FEMA that approximately 145,000 pages had been located in response to the FOIA request, however, the Department/FEMA would only release the 108 pages it had been able to review since March 11,

2010. (A true and correct copy of the October 21, 2011 FEMA correspondence response is annexed hereto as Exhibit “F”.)

32. Although the Department and FEMA, through Bennett, stated an intention to release further documents on a monthly basis (*Id.*), no further documents were produced by FEMA.

33. Although the Department and FEMA, through Bennett, stated that the \$27,410.00 advance payment would be waived due to the delay in processing the FOIA request (*Id.*), no refund has been provided to the requestors or CLAUSEN MILLER, P.C.

34. Having received no further documents, MURPHY again wrote to the Department/FEMA on November 30, 2011 and January 5, 2012. (True and correct copies of MURPHY’s correspondence is annexed hereto as Exhibits “G” and “H”, respectively.)

35. Neither the Department nor FEMA has responded to the November 30, 2011 or January 5, 2012 correspondence regarding FOIA request no. FEMA 10-338.

36. Under 5 U.S.C. § 522(a)(6)(A), an agency has 20 business days after the receipt of a proper FOIA request to determine whether it will comply with or deny the request. See also, 68 Fed. Reg. at 4059. If the agency decides to grant the request, it must disclose the requested records “promptly upon payment of any applicable fee.” *Id.*, see also § 552(a)(6)(C)(i).

37. The Department/FEMA’s production of just 108 pages out of 145,000 pages of documents over two years months is not “prompt”.

38. If the Department/FEMA is allowed to disclose documents at a rate of 108 pages per month for the 145,000 pages which are conceded to be responsive, it will take over 1342 months, or 111 years, for the Department or FEMA to fully comply with plaintiff’s FOIA request. This is patently unreasonable and is tantamount to a denial of the request by the Department and FEMA.

39. Significantly, at no time since receiving the February 26, 2010 FOIA request has the Department or FEMA asserted an objection, exemption, privilege or other reason why the requested documents should not be produced.

40. By virtue of its failure to timely respond and/or comply with the request, the Department and FEMA have violated their FOIA obligations.

41. The actions of the Department and FEMA complained of herein are final in nature. The plaintiff is without other recourse to obtain the requested documents. This is the plaintiff's first request for relief.

COUNT I

(Failure to Produce Records)

42. Plaintiff hereby repeats and re-alleges paragraphs 1 through 41 as if fully set forth herein.

43. The Freedom of Information Act, 5 U.S.C. § 552, reflects our nation's fundamental commitment to open government. With regards to FOIA requests like the one at issue:

... each agency, upon request for records which (A) (i) reasonably describes such records and (B) (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person ...

5 U.S.C. § 552(a)(3)(A) (emphasis added).

44. Plaintiff's FOIA request reasonably described the records sought.

45. Plaintiff's FOIA request was properly made in accordance with the published rules stating the time, place, fees and procedures to be followed.

46. In responding and/or failing to respond to the present FOIA request, the Department and/or FEMA has failed to set forth any exemptions which apply to the requested

documents.

47. In responding and/or failing to respond to the present FOIA request, the Department and/or FEMA has wrongly withheld documents.

48. Plaintiff is entitled by law to access the records requested under FOIA.

49. By its actions/inaction, the Department and/or FEMA has refused to perform the duty of disclosure enjoined upon it by FOIA.

50. Therefore defendants have violated FOIA's mandate to release agency records to the public by failing to release the records as plaintiff specifically requested. 5 U.S.C. §§ 552(a)(3)(A), 552(a)(4)(B).

COUNT II

(Failure to Respond)

51. Plaintiff hereby repeats and re-alleges paragraphs 1 through 50 as if fully set forth herein.

52. On February 26, 2010, MURPHY and Emmett jointly filed a FOIA request to the Department and FEMA. This request was accepted by the Department and/or FEMA without objection or exemption as no. FEMA 10-338.

53. When 144,892 pages or more of requested records were not produced by November 30, 2011, MURPHY wrote to the Department's Chief Privacy Officer/Chief FOIA Officer, Mary Ellen Callahan, seeking production in compliance with FOIA for request no. FEMA 10-338.

54. No response to MURPHY's November 30, 2011 correspondence has been provided by the Department or FEMA.

55. When 144,892 pages or more of requested records were not produced by January 5, 2012, MURPHY again wrote to the Department/FEMA, seeking production in compliance

with FOIA for request no. FEMA 10-338.

56. No response to MURPHY's January 5, 2012 correspondence has been provided by the Department or FEMA.

57. The Department and FEMA have exceeded the 20 working day statutory time limit for response. 5 U.S.C. § 552(a)(6)(A)(I).

58. Therefore defendants have violated FOIA's mandate to respond to plaintiff's FOIA requests within the statutory time period. *Id.*

COUNT III

(Unjust Enrichment)

59. Plaintiff hereby repeats and re-alleges paragraphs 1 through 58 as if fully set forth herein.

60. Plaintiff, via CLAUSEN MILLER, P.C., paid the Department and FEMA \$27,410.00 in fees for processing FOIA request no. FEMA 10-338 consisting of 256,500 pages, as described in the Department/FEMA's May 2010 correspondence. (See, Exhibit "C".)

61. The Department and FEMA have failed to produce all but 108 pages of documents responsive to plaintiff's FOIA request.

62. The Department and FEMA have exceeded the 20 working day statutory time limit for response to plaintiff's FOIA request. 5 U.S.C. § 552(a)(6)(A)(I).

63. The Department and FEMA have expressly waived the \$27,410.00 in fees per its October 21, 2011 correspondence:

... as it pertains to the fees for processing this request, all fees have been waived. This waiver of fees is due to our delay in processing your request. We will refund the full amount of \$27,410.00 to you.

(Exhibit "F" at 2.)

64. The Department and FEMA have failed to refund the \$27,410.00 in fees to

requestors or CLAUSEN MILLER, P.C.

65. It would be unjust for the defendants not to return the \$27,410.00.

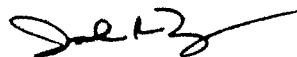
REQUEST FOR RELIEF

WHEREFORE, plaintiff respectfully requests this Court expedite consideration of this Complaint pursuant to 28 U.S.C. § 1657, and to grant judgment:

- (a) Declaring that the Department and FEMA have acted unlawfully in failing to disclose the documents requested by plaintiff;
- (b) Enjoining the Department and FEMA to immediately provide plaintiff with copies of all the documents requested in the February 26, 2010 FOIA request;
- (c) Enjoining the Department and FEMA to immediately return \$27,410.00 to plaintiff, via CLAUSEN MILLER, P.C.
- (d) Enjoining the Department and FEMA to provide plaintiff with a specific and particularized justification for withholding each document or portion thereof that it believes to be exempt from disclosure; and
- (e) Awarding plaintiff costs and attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (f) Awarding plaintiff such other and further relief as the Court deems just and proper.

Dated: February 10, 2012
New York, New York

Respectfully submitted,



Jacob R. Zissu
CLAUSEN MILLER, PC
One Chase Manhattan Plaza
New York, New York 10005
Phone (212) 805-3943

Fax (212) 805-3939

Attorneys for COURTNEY E. MURPHY

To:

U.S. Attorney for the Southern District of New York
One St. Andrews Plaza
New York, NY 10007
Phone (212) 637-2200

Cc:

Attorney General of the United States
c/o U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001
Phone (202) 514-2001

Secretary Janet Napolitano
Department of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528
Phone (202) 282-8000

EXHIBIT “A”

CONFIDENTIAL

**BAKER
DONELSON**
BEARMAN, CALDWELL
& BERKOWITZ, P.C.

201 ST. CHARLES AVENUE
SUITE 3600
NEW ORLEANS, LOUISIANA 70170
PHONE 504.566.5200
FAX 504.636.4000

www.bakerdonelson.com

ROBERT S. EMMETT
Direct Dial: 504.566.5261
Direct Fax: 504.636.3961
E-Mail Address: remmett@bakerdonelson.com

February 26, 2010

Via U. S. Mail

FEMA
FOIA Officer
500 C Street, S.W., Room 840
Washington, D. C. 20472

Re: *Orleans Parish School Board v. Lexington Insurance Company, et al.*
Civil District Court for the Parish of Orleans, State of Louisiana
No. 2006-7342, Division L, Section 6
Our File No. 2903561-07

Dear FEMA FOIA Officer:

This request is being made pursuant to the Freedom of Information Act. From August 29, 2005 to the present, I am requesting certified copies of the following:

- (1) All documents¹ pertaining to inspections conducted by FEMA and/or individuals or entities acting under FEMA's authority of any/all properties, buildings, schools and/or

¹ The purpose of this request, the term "document" or "documents" means any written, pictorial, or graphic matter, however produced or reproduced of any kind or description, whether sent or received or neither, and all copies thereof which are different in any way from the original (whether by underlining, notation, or otherwise) and both sides thereof, in your possession, custody, or control or in the possession, custody, or control of your authorized agents including but not limited to any third parties hired and specially retained by you regardless of where located. "Document" or "documents" includes all writings or recordings of any nature whatsoever, including, but not limited to, contracts, agreements and correspondence, and any other official documents and legal instruments, papers, books, accounts, letters, envelopes, photographs, agency records or filings, laws, regulations, scientific, medical or other journals, articles, studies, tests, graphs, charts, telegrams, communications, cables, telex messages, facsimiles, emails, memorandum, notes, notations, work papers, maps, interoffice communications, transcripts, minutes, reports and records of telephone or other conversations or of interviews or of conferences or of community meetings or of other meetings, affidavits, statements, summaries, opinions, analyses, evaluations, questionnaires, answers to questionnaires, handbooks, manuals, brochures, indices, schedules, checks, invoices, receipts, bills, books of account, vouchers, ledgers, orders, desk or other calendars, appointment books, diaries, lists, tabulations, plans, computer files, timesheets, computer printouts, data processing input and output, microfilm and any and all other records kept by electronic, or mechanical means, and things similar to the foregoing however designated by you and whether or not officially published.

NO RSE 222482 v2
2903561-000007 02/25/2010

ALABAMA • GEORGIA • LOUISIANA • MISSISSIPPI • TENNESSEE • WASHINGTON, D.C. • BEIJING, CHINA

Representative Office,
BDBC International, LLC

DTV/WANG-00204

CONFIDENTIAL

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC.

February 26, 2010
Page 2

other administrative buildings owned/operated by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area;

- (2) All documents pertaining to damage² assessments made by you and/or individuals or entities acting under FEMA's authority of schools and/or other buildings owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area;
- (3) All documents pertaining to grants, payments or other monies provided by you and/or dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency for the clean-up, debris removal, remediation, restoration, repair and/or reconstruction of schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area. Additionally, all documents detailing those amounts obligated by FEMA as well as amounts actually drawn down by the Louisiana Recovery School District from the State for each school, building and/or property;
- (4) Any and all documents pertaining to insurance credits and/or offsets taken by you or submitted to you regarding monies dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency and/or your payments for damage to schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area; and
- (5) Any and all documents pertaining to insurance coverage for schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area damaged by Hurricane Katrina.

My firm guarantees in advance the cost of researching and providing the requested information, certified copies of all data and/or certified copies of any documents produced pursuant to this request. In the interest of reducing costs, we ask that, if possible, you provide all documents on CD. Please

² For the purpose of this request, the term "damage" means any and all damage sustained as a result of vandalism, neglect, deferred maintenance, hurricane, theft, weather events subsequent to Hurricane Katrina (August 29, 2005) including but not limited to Hurricane Rita, mold, flood or other property or contents damage.

CONFIDENTIAL

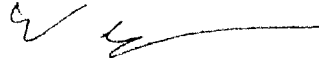
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC.

February 26, 2010

Page 3

contact me, before preparing the documents for production, so that we can discuss how best to accomplish this request.

With best regards,



Robert S. Emmett

RSE/mkh

cc: Terrill W. Boykin, Esq. *(Via U. S. Mail)*
Trevor G. Bryan, Esq. *(Via U. S. Mail)*
Brent B. Barriere, Esq. *(Via U. S. Mail)*
Robert A. Kutcher, Esq. *(Via U. S. Mail)*
Judy Y. Barrasso, Esq. *(Via U. S. Mail)*
Van H. Beckwith, Esq. *(Via U. S. Mail)*
Shelley Hammond Provosty, Esq. *(Via U. S. Mail)*
Robert I. Siegel, Esq. *(Via U. S. Mail)*
Courtney Murphy Esq. *(Via U. S. Mail)*

EXHIBIT “B”

U.S. Department of Homeland Security
500 C Street, SW
Washington, DC 20472

MAR 1 9 2010



FEMA

Robert S. Emmett
Baker Donelson
201 St. Charles Avenue, Suite 3600
New Orleans, LA 70170

Re: **FEMA 10-338**

Dear Mr. Emmett:

This acknowledges receipt of your February 26, 2010, Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA). You requested certified copies of the following from August 29, 2005 to the present:

- 1) all documents pertaining to inspections conducted by FEMA and/or individuals or entities acting under FEMA's authority of any/all properties, buildings, schools and/or other administrative buildings owned/ operated by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area;
- 2) all documents pertaining to damage assessments made by you and/or individuals or entities acting under FEMA's authority of schools and/or other buildings owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area;
- 3) all documents pertaining to grants, payments or other monies provided by you and/or dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency for the clean-up, debris removal, remediation, restoration, repair and/or reconstruction of schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area.
Additionally all documents detailing those amounts obligated by FEMA as well as amounts actually drawn down by the Louisiana Recovery School District from the State for each school, building, and/or property;
- 4) any and all documents pertaining to insurance credits and or offsets taken by you or submitted to you regarding monies dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency and/or your payments for damage to schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Department of Education located in the Greater New Orleans area; and

5) any and all documents pertaining to insurance coverage for schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Department of Education located in the Greater New Orleans area damaged by Hurricane Katrina..

Your request was received in this office on March 11, 2010.

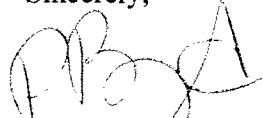
Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS interim FOIA regulations as they apply to commercial requestors; i.e., you will be charged 10-cents per page for duplication, and the quarter-hour rate for search and review, which can be the clerical rate (\$4.00), professional rate (\$7.00), and/or managerial rate (\$10.25). We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate component of FEMA for responsive records. If any responsive records are located, they will be reviewed to determine if they are releasable. We appreciate your patience as we proceed with your request.

More information concerning the FOIA and implementing DHS regulations is available on-line at: www.dhs.gov/xfoia/editorial_0318.shtm.

Your request has been assigned reference number **FEMA 10-338**. Please refer to this identifier in any future correspondence. You may contact this office at 202-646-3323 or by email at FEMA-FOIA@dhs.gov.

Sincerely,



Pauline Byrd
Senior FOIA Specialist
Disclosure Branch
Office of Records Management
Management Directorate

EXHIBIT “C”

U.S. Department of Homeland Security
500 C Street, SW
Washington, DC 20472



FEMA

MAY 24 2010

Robert S. Emmett
Baker Donelson
201 St. Charles Avenue, Suite 3600
New Orleans, LA 70170

RE: FEMA 10-338

Dear Mr. Emmett:

This letter provides a fee estimate applicable to processing your February 26, 2010, Freedom of Information Act (FOIA)/Federal Emergency Management Agency (FEMA). You requested certified copies of the following from August 29, 2005 to the present:

- 1) all documents pertaining to inspections conducted by FEMA and/or individuals or entities acting under FEMA's authority of any/all properties, buildings, schools and/or other administrative buildings owned/ operated by the Orleans Parish School Board and/ or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area;
- 2) all documents pertaining to damage assessments made by you and/or individuals or entities acting under FEMA's authority of schools and/or other buildings owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area;
- 3) all documents pertaining to grants, payments or other monies provided by you and/or dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency for the clean-up, debris removal, remediation, restoration, repair and/or reconstruction of schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area. Additionally all documents detailing those amounts obligated by FEMA as well as amounts actually drawn down by the Louisiana Recovery School District from the State for each school, building, and/or property;
- 4) any and all documents pertaining to insurance credits and or offsets taken by you or submitted to you regarding monies dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency and/or your payments for damage to schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Department of Education located in the Greater New Orleans area; and
- 5) any and all documents pertaining to insurance coverage for schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Department of Education located in the Greater New Orleans area damaged by Hurricane Katrina.

The FOIA provides three levels of fees that may be assessed to process a FOIA request according to categories of FOIA requesters. *See* 5 U.S.C. § 552(a)(4)(A)(i)(I),(II),(III) (2000).

Our March 16, 2010 acknowledgement of your request notified you that you were placed in the commercial category. Pursuant to the DHS implementing regulations, 6 C.F.R. § 5.11, commercial requesters are responsible to pay 10-cents per page for duplication and for search and review time at the per quarter-hour rate (\$4.00 for clerical personnel, \$7.00 for professional personnel, \$10.25 for managerial personnel) of the searcher and reviewer. It is estimated that it would take approximately 40 hours to search for and 40 hours to review all responsive records. Your billable search costs are \$16.00 per hour, and review costs are \$28.00 per hour, making the total for search and review \$1,760.00. It is estimated that our search would yield approximately 256,500 pages. Duplication costs for 256,500 pages at a rate of \$0.10 per page would total \$25,650.00. Based on this information, it is estimated that the overall fee to process your request will equal approximately \$27,410.00.

Since the total estimated fee exceeds \$250.00, you must make an advance payment of the entire anticipated fee before we can begin to process your request. *See* 6 C.F.R. § 5.11(i). Please submit your check or money order in the amount of \$27,410.00 made payable to the Treasury of the United States, to this office within 14 days from the date of this letter. Please mail your payment to this office at the following address:

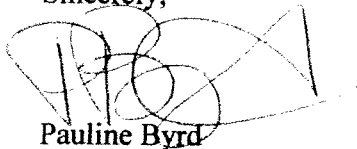
Disclosure Branch
Federal Emergency Management Agency
1800 S. Bell Street
Arlington, VA 20598-3005

In the alternative, you may narrow the scope of your request to reduce the amount of responsive records. If you wish to narrow the scope of your request, please send an amended request and indicate the processing fee amount you are willing to pay within 14 business days from the date of this letter. You may send your amended request to the address above, or send it by email to FEMA-FOIA@dhs.gov.

If we do not receive an advance payment of \$27,410.00 or an amended request from you within fourteen (14) business days from the date of this letter, we will consider this request withdrawn, and we will administratively close your request file.

If you have any questions, or would like to discuss this matter, please feel free to contact our office at 202-646-3323. Please refer to **FEMA 10-338** in all future correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pauline Byrd', is written over a circular stamp that is partially obscured by the signature.

Pauline Byrd
Senior FOIA Specialist
Disclosure Branch
Records Management Division

EXHIBIT “D”



CLAUSEN MILLER P.C.
CHICAGO, IL
IRVINE, CA
NEW YORK, NY
PARSIPPANY, NJ
SAN FRANCISCO, CA
WHEATON, IL
SHANGHAI, CHINA

CLAUSEN MILLER L.L.P.
LONDON, ENGLAND

CLAUSEN MILLER EUROPE
Clausen Miller PC
Clausen Miller L.L.P., LONDON
Tetraud-Lambard Jami & Associates, PARIS
Studio Legale Corapi, ROME
van Cuytem-Wittanier Mathef & Partners, BRUSSELS

Attorneys at Law

One Chase Manhattan Plaza, 39th Floor • New York, NY 10005 • www.clausen.com
Tel: 212.805.3900 • Fax: 212.805.3939

Courtney E. Murphy
Direct Line: (212) 805-3908
E-Mail: cmurphy@clausen.com

October 6, 2011

Dr. Tony Bennett
FEMA - FOIA
1800 S. Bell Street, Suite 401
Arlington, VA 22202

Re: *Orleans Parish School Board v. Lexington Insurance Company, et al*
Civil District Court for the Parish of Orleans, State of Louisiana
Court No.: 2006-7342, Division L, Section 6
Our File No.: 15-1679-00-8
FEMA 10-338

Dear Dr. Bennett:

Thank you again for taking the time to contact me this afternoon and provide a status of our FOIA request which has been made jointly with Robert Emmett of the Baker Donelson firm. You had indicated that you had a team working on the production and we may receive part of the production as early as tomorrow. You had also cautioned that you may not be able to comply with our October 10, 2011, deadline. We request that every effort be made to comply with our FOIA request by October 10, 2011, or as soon thereafter as possible.

One issue that occurred to me after we got off the telephone was that you had indicated that the total production consisted of approximately 150,000 pages/documents which are contained in approximately 43 boxes, give or take. This was somewhat disconcerting given that we were originally told that there were 300,000 records and quantity of records determined the price we paid for them. Although you had indicated that your computers may have picked up duplicates that may have been culled out, we ask that all records be produced so that we have the ability to make that determination for ourselves. The basis for this request is that we know that FEMA not only inspected the buildings within the New Orleans Parish, but FEMA also performed multiple reinspections of the various Orleans Parish Schools and buildings. As such, what may (at first blush) appear to be a duplicate, may actually be an amended record, modified record or supplemented record based upon the additional, subsequent inspections performed since 2005 (Hurricane Katrina). For example,

*Clausen
Miller*

Dr. Tony Bennett

October 6, 2011

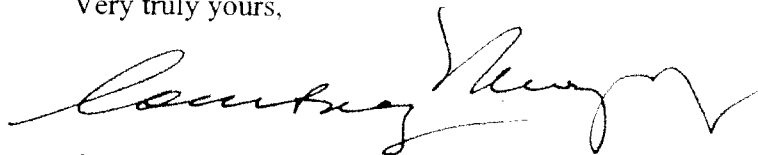
Page 2

though there may be records and PWs for Building "A" generated in 2006, we know that there were several re-inspections of Building "A" in 2007, 2008 and 2009, which, upon initial review, may appear to be a duplicate record when in fact, the subsequent records contain minor or potentially major differences. We would need to see all records to see FEMA's original inspection results and be able to compare them with the final report issued.

For the foregoing reasons, I would request that the perceived "duplications" not be culled from the production because it may be that the records may not be duplicates at all. If you wish to discuss these concerns, please feel free to call me directly.

As always, thank you for your attention to this matter. We greatly appreciate your efforts.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Courtney E. Murphy', with a stylized, flowing script.

Courtney E. Murphy

CEM:ms

cc: Robert Emmett

EXHIBIT “E”

**BAKER
DONELSON**
BEARMAN, CALDWELL
& BERKOWITZ, PC

201 ST. CHARLES AVENUE
SUITE 3600
NEW ORLEANS, LOUISIANA 70170
PHONE: 504.566.5200
FAX: 504.636.4000
www.bakerdonelson.com

ROBERT S. EMMETT, SHAREHOLDER
Direct Dial: (504) 566-5261
Direct Fax: (504) 636-3961
E-Mail Address: remmett@bakerdonelson.com

October 6, 2011

Dr. Tony Bennett
FEMA – FOIA
1800 S. Bell Street, Suite 401
Arlington, VA 22202

Re: *Orleans Parish School Board v. Lexington Insurance Company, et al.*
Civil District Court for the Parish of Orleans, State of Louisiana
No.: 2006-7342, Division "L", Section "6"
Our File No. 2903561-07

FEMA 10-338

Dear Dr. Bennett:

As you know we represent Clarendon America Insurance Company in connection with the above referenced matter. As you are also aware, a FOIA request was previously made upon FEMA on February 26, 2010, a response to which has yet to be received due to multiple reassignments of the case within your office. We understand that on September 28, 2011, you spoke with attorney Courtney Murphy of the Clausen Miller, PC law firm who represents the other insurers similarly involved in the referenced matter, and advised her that you had placed a Team Leader to be in charge of the document review in an effort to expedite the review process by eliminating a layer of review that would ordinarily be involved in responding to a request such as this one. We also understand that you are attempting to comply with our FOIA request by October 10, 2011, which we would greatly appreciate given the active nature of our litigation and controlling discovery scheduling order. If you have any questions or concerns, please do not hesitate to give me a call.

Yours sincerely,



Robert S. Emmett

RSE/kbl

cc: Courtney E. Murphy, Esq. (Via Email – cmurphy@clausen.com)

EXHIBIT “F”

U.S. Department of Homeland Security
500 C Street, SW
Washington, DC 20472

 OCT 2011



FEMA

October 21, 2011

Mr. Robert S. Emmett
Baker, Donelson, Bearman, Caldwell
& Berkowitz, PC
201 St. Charles Avenue
Suite 3600
New Orleans, Louisiana 70170

Re: FEMA 10-338 (First Interim)

Dear Mr. Emmett:

This is the first interim response to your February 26, 2010, Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), received on March 11, 2010, for the following:

1. All documents pertaining to inspections conducted by FEMA and/or individuals or entities acting under FEMA's authority of any/all properties, buildings, schools and/or other administrative buildings owned/operated by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater Orleans area;
2. All documents pertaining to damage assessments made by [FEMA] and/or individuals or entities acting under FEMA's authority of schools and/or other buildings owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area;
3. All documents pertaining to grants, payments or other monies provided by [FEMA] and/or dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency for the clean-up, debris removal, remediation, restoration, repair and/or reconstruction of schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area. Additionally, all documents detailing those amounts obligated by FEMA as well as amounts actually drawn down by the Louisiana Recovery School District from the State for each school, building and/or property;
4. Any and all documents pertaining to insurance credits and/or offsets taken by you or submitted to you regarding monies dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency and/or your payments for damage to schools or other structures owned by the Orleans Parish School

Mr. Robert S. Emmett
FEMA 10-338 (First Interim)

2

Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area; and

5. Any and all documents pertaining to insurance coverage for schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area damaged by Hurricane Katrina.

In responding to your FOIA request, we conducted a search of the Louisiana Recovery Office (LRO) for responsive documents. The search produced approximately 145,000 pages. For this first interim release, we have reviewed 108 pages and determined that all 108 pages are fully releasable.

Regarding the remaining pages of responsive documents, we plan to release this information to you on a monthly basis from the date of this letter until all the documents have been released.

Moreover, we have determined a monthly release of information is most feasible due to the volume of records to be reviewed and our multi-tiered FOIA review process, which is as follows. Once we receive records, the first-line processor reviews the documents and determines the releasability. Then, the first-line processor's review determination is referred to the assigned team leader for review. If the team leader has no matters to amend, the review is referred to FEMA's Office of Chief Counsel (OCC) for legal review, to ensure compliance with the FOIA statute and applicable Department of Homeland Security regulations. If OCC has no matters to amend, the final review determination is routed to the Disclosure Branch Chief for signature and final release. If at any time during this review process there is a question with the release determination, the review process starts at the beginning, i.e., the documents are returned to the first-line processor to address the concerns, recommendations, and modifications identified during the team leader and OCC reviews. After the concerns, recommendations, and modifications are addressed by the first-line processor, the corrected release determination is then submitted for concurrence by the team leader for final signature of the Disclosure Branch Chief.

In addition, as it pertains to the fees for processing this request, all fees have been waived. This waiver of fees is due to our delay in processing your request. We will refund the full amount of \$27,410.00 to you.

To assist in processing this refund, FEMA's Financial Management Division requires an official, written refund request from you. In that request, please indicate the following information: (1) your full name, (2) your full address, (3) TIN or your social security number (SSN), (4) electronic banking information (EFT) and routing number, (5) the amount to be refunded, and finally, (6) the reason for the refund. You may send this information via e-mail to FEMA-FOIA@dhs.gov, or by regular mail to the Disclosure Branch, 1800 South Bell Street, Fourth Floor, Arlington, Virginia 20598-3005.

Mr. Robert S. Emmett
FEMA 10-338 (First Interim)

3

We trust this has been responsive to your concerns regarding the delay. Should you need to contact us about this request, you may contact this office at (202) 646-3323 or electronically at FEMA-FOIA@dhs.gov. Please reference the request identifier **FEMA 10-338**.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. M. Bennett', written over a horizontal line.

Dr. Anthony M. Bennett
Disclosure Branch Chief
Records Management Division
Mission Support Bureau

Enclosure: Responsive Documents on CD (108 pages)

EXHIBIT “G”



CLAUSEN MILLER P.C.
CHICAGO, IL
IRVINE, CA
NEW YORK, NY
PARSIPPANY, NJ
SAN FRANCISCO, CA
WHEATON, IL
SHANGHAI, CHINA

CLAUSEN MILLER LLP
LONDON, ENGLAND

CLAUSEN MILLER EUROPE
Clausen Miller P.C.
Clausen Miller LLP, LONDON
Tetard-Lambard-Jamé & Associés, PARIS
Studio Legale Corapi, ROME
van Cutsem-Wittamer-Marnef & Partners, BRUSSELS

Attorneys at Law

One Chase Manhattan Plaza, 39th Floor • New York, NY 10005 • www.clausen.com
Tel: 212.805.3900 • Fax: 212.805.3939

November 30, 2011

Mary Ellen Callahan
Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
U.S. Department of Homeland Security
245 Murray Drive SW, Building 410
STOP-0655
Washington, D.C. 20528-0655

RE: **FEMA 10-338**
FOIA Request Date: February 26, 2010

Orleans Parish School Board v. Lexington Insurance Company, et al.
Civil District Court for the Parish of Orleans, State of Louisiana
No. 2006-7342, Division L, Section 6
Our File No. 2903561-07

Dear Ms. Callahan:

Please be advised that this firm represents various Insurers in the referenced litigation pending in the Civil District Court for the Parish of Orleans, State of Louisiana. We write in a final attempt to obtain those records which were requested in a FOIA request made almost two (2) years ago though never complied with despite repeated assurances by your office.

The referenced matter pertains to FEMA's investigation and reporting of various loss and damage sustained to several buildings within the Orleans Parish school system. Specifically, in August, 2006, the Orleans Parish School Board ("OPSB") commenced litigation against its property Insurers seeking recovery under its commercial property policy for loss and damage the OPSB asserts to be in excess of \$800 million as alleged in their Petition.¹ We understand that after Hurricane Katrina, FEMA representatives performed various inspections and re-inspections of OPSB's properties which continued well through 2009. Those inspections and the

¹ Clausen Miller, PC and the firm of Baker, Donelson, Bearman, Caldwell and Berkowitz, P.C. represent Insurers in the pending proceeding.

**Clausen
Miller**

records/reports generated from those inspections are material and necessary to the defense of the subject litigation. Our trial is currently set for September, 2012.

After a full year passed since the initial request was made, we contacted your office and were advised time and again that the case manager assigned to the request had either been reassigned or was no longer with the organization. Finally, in August, 2011, we were contacted by Dr. Tony Bennett who advised that he would be giving us a production schedule/plan on August 18th with the requested documents, of which there were an estimated 300,000, being produced the following week on a rolling basis. We were never provided with the production schedule/plan as promised, nor did we receive any documents. (Importantly, neither the U.S. Department of Homeland Security nor FEMA has ever denied the request for any reason – there has simply been an inexcusable failure to respond).

On September 28, 2011, we followed up with Dr. Bennett who advised that he placed a Team Leader to be in charge of the document review in an effort to expedite the review process by eliminating a layer of review that would ordinarily be involved in responding to a request such as this. We were also advised that we would receive the records by October 10, 2011. Once again, no records were provided as represented.

On October 20, 2011, we again followed up with Dr. Bennett who then advised that rather than producing the records as promised, such records now had to be sent to “legal” for an additional layer of review and that documents would be forthcoming shortly thereafter.

Then on October 21, 2011, we received the “first interim response” by Dr. Bennett wherein he produced a mere 108 pages and advised us that he planned to release the remainder of the information on a monthly basis from the date of the letter until all of the documents have been released. (See Bennett letter dated October 21, 2011, annexed hereto). At this rate and by our calculations, we will not receive all the records in our lifetime which clearly is unacceptable given our September, 2012, trial date. (It is worth noting that we never did receive the November, 2011, production).

As you know, under 5 U.S.C. §522(a)(6)(A), the Agency has 20 business days after the receipt of a proper FOIA request to determine whether it will comply with or deny the request and notify the requesting party of its decision and reasons therefore. *See also*, 68 Fed. Reg. at 4059. Once made, the Agency must notify the requesting party of its decision to grant or deny in writing, as well as inform the requester of any applicable fees charged. *Id.* The 20-day response period commences upon receipt of the request by the Agency and may not be tolled by the Agency except where the Agency requests further information from the requester or clarification regarding applicable fees. (Please be advised that we promptly paid \$27,410.00 for the records. That Dr. Bennett advised us that our \$27,410.00 would be refunded does not relieve the agency of its obligations to nevertheless produce the requested records).

Although we recognize that the Agency may extend the time limit for responding to a request for “unusual circumstances”, no such unusual circumstances have been identified. In fact, the only explanation given for the Agency’s failure to produce the requested records were:

**Clausen
Miller**


a) employee turnover; and b) backlog. No extensions were requested by the Agency and unfortunately, given the time that has passed, we are no longer in a position to grant such a request as we would normally be inclined to do.

Absent immediate compliance with our request, we will have no alternative but to seek judicial review of this matter. As you know, a requesting party may seek judicial review under the FOIA without first exhausting administrative remedies where the agency fails to comply with the time limits set by the statute. §552(a)(6)(C).

We have been very patient and have made every effort to work with Dr. Bennett and his staff in an effort to resolve this matter without success. Unfortunately, time is now of the essence in light of our litigation deadlines. We respectfully requested that this matter be given immediate attention or else we will have no alternative, but seek judicial review of this matter.

Thank you in advance for your consideration of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Courtney E. Murphy", with a stylized flourish at the end.

Courtney E. Murphy

cc: Robert Emmett, Esq.

EXHIBIT “H”



CLAUSEN MILLER P.C. CLAUSEN MILLER L.L.P. CLAUSEN MILLER EUROPE
CHICAGO, IL LONDON, ENGLAND CLAUSEN MILLER P.C.
IRVINE, CA CLAUSEN MILLER L.L.P., LONDON
NEW YORK, NY Geraud Lombard Jami & Associates, PARIS
PARMIPANY, NJ Studio Legale Corapi, ROME
SAN FRANCISCO, CA van Causen Wouters-Marnet & Partners, BRUSSELS
WHEATON, IL
SHANGHAI, CHINA

Attorneys at Law

One Chase Manhattan Plaza, 39th Floor • New York, NY 10005 • www.clausen.com
Tel: 212.805.3900 • Fax: 212.805.3939

Courtney E. Murphy
Direct Line: (212) 805-3908
Direct Fax: (212) 805-3939
E-Mail: cmurphy@clausen.com

January 5, 2012

Via Federal Express

FEMA
FOIA Officer
500 C Street, S.W., Room 840
Washington, D. C. 20472

Re: **FEMA: 10-338**
Orleans Parish School Board v. Lexington Insurance Company, et al.
Civil District Court for the Parish of Orleans, State of Louisiana
No. 2006-7342, Division L, Section 6
Our File No. 2903561-07

Dear FEMA FOIA Officer:

This request reiterates the request previously made by Robert S. Emmett of Baker Donelson, Bearman, Cadwell & Berkowitz, PC on February 26, 2010, pursuant to the Freedom of Information Act which was joined by this firm. We reiterate the demand for records made pursuant to Request 10-338 which remains pending. Please also be advised that payment for the records requested in FEMA Request 10-338 were paid for by Clausen Miller, P.C. The Agency is in possession of the payment records.

The following documents are requested:

- (1) All documents¹ pertaining to inspections conducted by FEMA and/or individuals or entities acting under FEMA's authority of any/all properties, buildings, schools and/or

¹ The purpose of this request, the term "document" or "documents" means any written, pictorial, or graphic matter, however produced or reproduced of any kind or description, whether sent or received or neither, and all copies thereof which are different in any way from the original (whether by underlining, notation, or otherwise) and both sides thereof, in your possession, custody, or control or in the possession, custody, or control of your authorized agents including but not limited to any third parties hired and specially retained by you regardless of where located. "Document" or "documents" includes all writings or recordings of any nature whatsoever, including, but not limited to, contracts, agreements and correspondence, and any other official documents and legal instruments, papers, books, accounts, letters, envelopes, photographs, agency records or filings, laws, regulations, scientific, medical or other journals, articles, studies, tests, graphs, charts, telegrams, communications, cables, telex messages, facsimiles, emails, memorandum, notes, notations, work papers, maps, interoffice communications, transcripts, minutes, reports and records of telephone or other conversations or of interviews or of

*Clausen
Miller*

FEMA FOIA Officer

January 5, 2012

Page 2

other administrative buildings owned/operated by the Orleans Parish School Board, and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area;

- (2) All documents pertaining to damage² assessments made by you and/or individuals or entities acting under FEMA's authority of schools and/or other buildings owned by the Orleans Parish School Board and/or the Louisiana Recovery School District administered by the Louisiana Department of Education located in the Greater New Orleans area;
- (3) All documents pertaining to grants, payments or other monies provided by you and/or dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency for the clean-up, debris removal, remediation, restoration, repair and/or reconstruction of schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Recovery School District located in the Greater New Orleans area. Additionally, all documents detailing those amounts obligated by FEMA as well as the amounts actually drawn down by the Louisiana Recovery School District from the State for each school, building and/or property;
- (4) Any and all documents pertaining to insurance credits and/or offsets taken by you or submitted to you regarding monies dedicated to the Orleans Parish School Board, Louisiana Recovery School District and/or any other local or state agency and/or your payments for damage to schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Recovery School District located in the Greater New Orleans area; and
- (5) Any and all documents pertaining to insurance coverage for schools or other structures owned by the Orleans Parish School Board and/or the Louisiana Recovery School District located in the Greater New Orleans area damaged by Hurricane Katrina.

conferences or of community meetings or of other meetings, affidavits, statements, summaries, opinions, analyses, evaluations, questionnaires, answers to questionnaires, handbooks, manuals, brochures, indices, schedules, checks, invoices, receipts, bills, books of account, vouchers, ledgers, orders, desk or other calendars, appointment books, diaries, lists, tabulations, plans, computer files, timesheets, computer printouts, data processing input and output, microfilm and any and all other records kept by electronic, or mechanical means, and things similar to the foregoing however designated by you and whether or not officially published.

² For the purpose of this request, the term "damage" means any and all damage sustained as a result of vandalism, neglect, deferred maintenance, hurricane, theft, weather events subsequent to Hurricane Katrina (August 29, 2005) including but not limited to Hurricane Rita, mold, flood or other property or contents damage.

*Clausen
Miller*

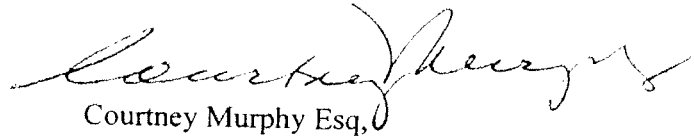
FEMA FOIA Officer

January 5, 2012

Page 3

To the extent that you do not provide Mr. Emmett with the above, my firm will guarantee in advance the cost of researching and providing the requested information, certified copies of all data and/or certified copies of any documents produced pursuant to this request. Please feel free to contact me if you have any questions or require additional information.

Very truly yours,



Courtney Murphy Esq,

CEM/jrz

cc: Robert S. Emmett